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Docket No.: 02559/100F420-US1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Moshe Zilberstein, et al.

Confirmation No. 5469

Application No.: 09/422,387

Art Unit: 2155

Filed: October 21, 1999

Examiner: K. Q. Dinh

For: SYSTEM AND METHOD FOR PROCESSING
AND PRESENTING INTERNET USAGE
INFORMATION TO FACILITATE USER
COMMUNICATIONS

APPELLANTS' BRIEF ON APPEAL UNDER 37 C.F.R. § 41.37

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Appellants submit this brief in accordance with 37 C.F.R. § 41.37 in support of their appeal from the Final Office Action, mailed June 13, 2005 by Examiner Khanh Q. Dinh, and the Notice of Panel Decision from Pre-Appeal Brief Review, mailed January 5, 2006, in the above-identified patent application.

In accordance with the Pre-Appeal Brief Conference Pilot Program, "the period of time for filing the appeal brief will be the later of the two-month period set in 37 C.F.R. § 41.37(a) or one month from the mail date of the decision on the request." See USPTO OG Notice: July 13, 2005. Therefore, Appellants submit that this Appeal Brief is timely filed, and requires no extension of time fees. However, the Commissioner is hereby authorized to charge any unpaid fees deemed required in connection with this Appeal Brief, or to credit any overpayment, to Deposit Account No. 04-0100.

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contains entries that map a URL to each resource. As resources are moved or deleted, their indirection table entry must be updated. Smith, column 11, lines 48-63.

The Examiner contends that Smith discloses “transferring data to [a] user when [the] user is connected to other web sites,” and cites Smith, column 11, line 13 through column 12, line 67 as support for this premise. Appellants respectfully disagree that the cited portion discloses transferring data to a user connected to other web sites. The cited portion discloses “each of the pages (documents) on a web site is typically stored as an individual HTML file on the web site’s server.” Smith, column 11, lines 13-15. The cited portion also discloses “the server looks up the location of the resource in the indirection table, and then forwards a copy of the resource to the client.” Smith, column 11, lines 59-61. However, the cited portion does not support the Examiner’s contention that data is transferred to a user connected to another website. Appellant further submits that even, assuming *arguendo*, if such disclosure was present in Smith, the combination would not result in the claimed invention.

Pending independent claims 7, 14 and 15 each recite “transmitting data representative of the usage to the user **by way of a monitor window when the user is connected to any other website on the communication network.**” Emphasis added. Independent claim 21 recites similar subject matter.

Combining Hoyer and Smith results in a system that transmits performance measurements to a client connected to the web site being monitored, and will also forward static resources (*e.g.*, web pages and documents) in response to the client activating hyperlinks embedded in the web site, where the combination tracks changes to the location of the resources identified by the hyperlinks in an indirection table. Appellants submit that the combination of Hoyer and Smith does not result in a system that “transmit[s] data representative of the usage to the user by way of a monitor window when the user is connected to any other website on the communication network,” as recited in the claimed invention. Thus, the combination of Hoyer and Smith does not result in the claimed invention. Therefore, the Examiner has failed to meet the burden of establishing a *prima facie* case of obviousness.


teachings. There must be a reason or suggestion in the art for selecting the procedure used, other than the knowledge learned from the Appellant's disclosure.” *In re Dow Chemical Co.*, 5 U.S.P.Q. 2d 1529, 1531 (Fed. Cir. 1988) (citations omitted).

As demonstrated above, Appellants submit that the Examiner has not shown any objective teaching from the cited art that would lead an individual to combine Hoyer and Smith. A person of ordinary skill in the art in possession of Hoyer at the time of the invention would not be motivated to look to Smith's teaching regarding maintaining an indirection table of URL hyperlinks to solve the problem of providing a user with performance usage information of one website, while the user is connected to any website on a communication network. Therefore, the Examiner has failed to meet the burden of establishing a *prima facie* case of obviousness.

For all of the reasons set forth above, the rejections of claims 7-11, 14, 15 and 20-26 should be reversed. Appellants respectfully request that the application be remanded to the Primary Examiner with an instruction to withdraw the 35 U.S.C. § 103(a) rejections, and pass the case to allowance.

Respectfully submitted,

Dated: January 30, 2006

By 
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Attorneys/Agents For Appellant

APPENDIXES

CLAIMS APPENDIX

The following is a copy of the claims involved in the appeal:

1-6. (Canceled)

7. (Previously Presented) A method for providing usage information of a first web site designated by a user, the method comprising:
receiving, from the user, a designation of the first web site as a monitored website, wherein the monitored website is any web site on a communication network;
monitoring usage of the monitored website; and
transmitting data representative of the usage to the user by way of a monitor window when the user is connected to any other website on the communication network.

8. (Previously Presented) The method of claim 7, further comprising:
displaying to the user the usage information in a graphical format.

9. (Previously Presented) The method of claim 7, further comprising:
displaying to the user the usage information in a text format.

10. (Previously Presented) The method of claim 7, wherein the usage information is displayed automatically to the user.

11. (Previously Presented) The method of claim 7, wherein the usage information is displayed only upon a command generated by the user.

12-13 (Canceled)

14. (Previously Presented) A computer-readable medium encoded with processing instructions for implementing a method for providing usage information of a first web site designated by a user, the method comprising:

receiving, from the first user, a designation of the first web site as a monitored website, wherein the monitored website is any web site on a communication network;

monitoring at least one other user's usage of the monitored website; and

transmitting data representative of the at least one other user's usage to the first user by way of a monitor window when the first user is connected to any other website on the communication network.

22. (Previously Presented) The method of claim 21, further comprising:
displaying to the first user the at least one other user's usage information in a graphical format.
23. (Previously Presented) The method of claim 21, further comprising:
displaying to the first user the at least one other user's usage information in a text format.
24. (Previously Presented) The method of claim 21, wherein the at least one other user's usage information is displayed automatically to the first user.
25. (Previously Presented) The method of claim 21, wherein the at least one other user's usage information is displayed in response to a command generated by the first user.
26. (Previously Presented) The method of claim 21, wherein the usage information comprises an indication of a most-popular next-visited web site for a plurality of users, an indication of web sites visited by the plurality of users prior to visiting the first web site, and an indication of when and for how long the plurality of users visited the first web site.

EVIDENCE APPENDIX

All evidence is in the record.

RELATED PROCEEDINGS APPENDIX

There are no related proceedings for this matter.

Attorney Docket No.: 02559/100F420-US1

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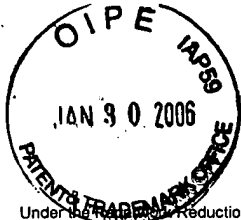
Fee Transmittal (1 page)

Appeal Brief Transmittal (1 page)

Appellants' Brief on Appeal under 37 C.F.R. 41.37 (12 pages) (3 copies)

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| Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818). FEE TRANSMITTAL For FY 2005 | | Complete if Known | |
| | | Application Number | 09/422,387-Conf. #5469 |
| | | Filing Date | October 21, 1999 |
| | | First Named Inventor | Moshe Zilberstein |
| | | Examiner Name | K. Q. Dinh |
| <input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27 | Art Unit | 2151 | |
| TOTAL AMOUNT OF PAYMENT | (\$) 500.00 | Attorney Docket No. | 02559/100F420-US1 |

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| Deposit Account Name: Darby & Darby P.C. | |
| For the above-identified deposit account, the Director is hereby authorized to: (check all that apply) | |
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| <input checked="" type="checkbox"/> Charge any additional fee(s) or underpayment of fee(s) under 37 CFR 1.16 and 1.17 | <input checked="" type="checkbox"/> Credit any overpayments |

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|---|--------------------|---------------------|---|----------------------|----------------------------------|----------------------|-----------------------|
| FEE CALCULATION | | | | | | | |
| 1. BASIC FILING, SEARCH, AND EXAMINATION FEES | | | | | | | |
| | FILING FEES | | SEARCH FEES | | EXAMINATION FEES | | |
| | | Small Entity | | Small Entity | | Small Entity | |
| Application Type | Fee (\$) | Fee (\$) | Fee (\$) | Fee (\$) | Fee (\$) | Fee (\$) | Fees Paid (\$) |
| Utility | 300 | 150 | 500 | 250 | 200 | 100 | |
| Design | 200 | 100 | 100 | 50 | 130 | 65 | |
| Plant | 200 | 100 | 300 | 150 | 160 | 80 | |
| Reissue | 300 | 150 | 500 | 250 | 600 | 300 | |
| Provisional | 200 | 100 | 0 | 0 | 0 | 0 | |
| 2. EXCESS CLAIM FEES | | | | | | | |
| | | | | | | Small Entity | |
| | | | | | | Fee (\$) | Fee (\$) |
| Each claim over 20 (including Reissues) | | | | | | 50 | 25 |
| Each independent claim over 3 (including Reissues) | | | | | | 200 | 100 |
| Multiple dependent claims | | | | | | 360 | 180 |
| Total Claims | | Extra Claims | Fee (\$) | Fee Paid (\$) | Multiple Dependent Claims | | |
| 14 | | - 40 = | x | = | Fee (\$) | | Fee Paid (\$) |
| Indep. Claims | | Extra Claims | Fee (\$) | Fee Paid (\$) | | | |
| 4 | | - 13 = | x | = | | | |
| 3. APPLICATION SIZE FEE | | | | | | | |
| If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s). | | | | | | | |
| Total Sheets | | Extra Sheets | Number of each additional 50 or fraction thereof | | Fee (\$) | Fee Paid (\$) | |
| - 100 = | | /50 | (round up to a whole number) x | | = | | |
| 4. OTHER FEE(S) | | | | | | | |
| Non-English Specification, \$130 fee (no small entity discount) | | | | | | | |
| Other (e.g., late filing surcharge): 1402 Filing a brief in support of an appeal | | | | | | 500.00 | |

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|---------------------|-----------------|-----------------------------------|------------------|
| SUBMITTED BY | | | |
| Signature | | Registration No. (Attorney/Agent) | 47,698 |
| Name (Print/Type) | Richard J. Katz | Telephone | (212) 527-7700 |
| | | Date | January 30, 2006 |

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**TRANSMITTAL OF APPEAL BRIEF**Docket No.
02559/100F420-US1

In re Application of: Moshe Zilberstein et al.

Application No.
09/422,387-Conf. #5469Filing Date
October 21, 1999Examiner
K. Q. DinhGroup Art Unit
2151Invention: SYSTEM AND METHOD FOR PROCESSING AND PRESENTING INTERNET USAGE
INFORMATION TO FACILITATE USER COMMUNICATIONS**TO THE COMMISSIONER OF PATENTS:**Transmitted herewith is the Appeal Brief in this application, with respect to the Notice of Appeal
filed: November 14, 2005The fee for filing this Appeal Brief is \$ 500.00

Large Entity



Small Entity

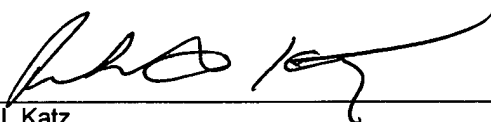


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